

written recommendations as to how the proposed use affects the integrity of, or your ability to operate, your facilities. The notice will contain a time period within which you must respond. The notice may also notify you of additional opportunities to comment.

§ 2807.15 How is grant administration affected if the land my grant encumbers is transferred to another Federal agency or out of Federal ownership?

(a) If there is a proposal to transfer the land your grant encumbers to another Federal agency, BLM may, after reasonable notice to you, transfer administration of your grant for the lands BLM formerly administered to another Federal agency, unless doing so would diminish your rights. If BLM determines your rights would be diminished by such a transfer, BLM can still transfer the land, but retain administration of your grant under existing terms and conditions.

(b) If there is a proposal to transfer the land your grant encumbers out of Federal ownership, BLM may, after reasonable notice to you and in conformance with existing policies and procedures:

(1) Transfer the land subject to your grant. In this case, administration of your grant for the lands BLM formerly administered is transferred to the new owner of the land;

(2) Transfer the land, but BLM retains administration of your grant; or

(3) Reserve to the United States the land your grant encumbers, and BLM retains administration of your grant.

(c) BLM or, if BLM no longer administers the land, the new land owner may negotiate new grant terms and conditions with you. This may include increasing the term of your grant, should you request it, to a perpetual grant under § 2806.23(c) of this part or providing for an easement.

§ 2807.16 Under what conditions may BLM order an immediate temporary suspension of my activities?

(a) If BLM determines that you have violated one or more of the terms, conditions, or stipulations of your grant, we can order an immediate temporary suspension of activities within the right-of-way area to protect public

health or safety or the environment. BLM can require you to stop your activities before holding an administrative proceeding on the matter.

(b) BLM may issue the immediate temporary suspension order orally or in writing to you, your contractor or subcontractor, or to any representative, agent, or employee representing you or conducting the activity. When you receive the order, you must stop the activity immediately. BLM will, as soon as practical, confirm an oral order by sending or hand delivering to you or your agent at your address a written suspension order explaining the reasons for it.

(c) You may file a written request for permission to resume activities at any time after BLM issues the order. In the request, give the facts supporting your request and the reasons you believe that BLM should lift the order. BLM must grant or deny your request within 5 business days after receiving it. If BLM does not respond within 5 business days, BLM has denied your request. You may appeal the denial under § 2801.10 of this part.

(d) The immediate temporary suspension order is effective until you receive BLM's written notice to proceed with your activities.

§ 2807.17 Under what conditions may BLM suspend or terminate my grant?

(a) BLM may suspend or terminate your grant if you do not comply with applicable laws and regulations or any terms, conditions, or stipulations of the grant (such as rent payments), or if you abandon the right-of-way.

(b) A grant also terminates when:

(1) The grant contains a term or condition that has been met that requires the grant to terminate;

(2) BLM consents in writing to your request to terminate the grant; or

(3) It is required by law to terminate.

(c) Your failure to use your right-of-way for its authorized purpose for any continuous 5-year period creates a presumption of abandonment. BLM will notify you in writing of this presumption of abandonment by proving that you used the right-of-way or that your failure to use the right-of-way was due to

§ 2807.18

circumstances beyond your control, such as acts of God, war, or casualties not attributable to you.

(d) You may appeal a decision under this section under § 2801.10 of this part.

§ 2807.18 How will I know that BLM intends to suspend or terminate my grant?

(a) Before BLM suspends or terminates your grant under § 2807.17(a) of this subpart, it will send you a written notice stating that it intends to suspend or terminate your grant and giving the grounds for such action. The notice will give you a reasonable opportunity to correct any noncompliance or start or resume use of the right-of-way, as appropriate.

(b) To suspend or terminate a grant issued as an easement, BLM must give you written notice and refer the matter to the Office of Hearings and Appeals for a hearing before an ALJ under 5 U.S.C. 554. No hearing is required if the grant provided by its terms for termination on the occurrence of a fixed or agreed upon condition, event, or time. If the ALJ determines that grounds for suspension or termination exist and such action is justified, BLM will suspend or terminate the grant.

§ 2807.19 When my grant terminates, what happens to any facilities on it?

(a) After your grant terminates, you must remove any facilities within the right-of-way within a reasonable time, as determined by BLM, unless BLM instructs you otherwise in writing, or termination is due to non-payment of rent (see § 2806.13(c) of this part).

(b) After removing the facilities, you must remediate and restore the right-of-way area to a condition satisfactory to BLM, including the removal and clean up of any hazardous materials.

(c) If you do not remove all facilities within a reasonable period as determined by BLM, BLM may declare them to be the property of the United States. However, you are still liable for the costs of removing them and for remediating and restoring the right-of-way area.

43 CFR Ch. II (10–1–08 Edition)

§ 2807.20 When must I amend my application, seek an amendment of my grant, or obtain a new grant?

(a) You must amend your application or seek an amendment of your grant when there is a proposed substantial deviation in location or use.

(b) The requirements to amend an application or grant are the same as those for a new application, including paying processing and monitoring fees and rent according to §§ 2804.14, 2805.16, and 2806.10 of this part.

(c) Any activity not authorized by your grant may subject you to prosecution under applicable law and to trespass charges under subpart 2808 of this part.

(d) If your grant was issued prior to October 21, 1976, and there is a proposed substantial deviation in the location or use or terms and conditions of your right-of-way grant, you must apply for a new grant consistent with the remainder of this section. BLM may respond to your request in one of the following ways:

(1) If BLM approves your application, BLM will terminate your old grant and you will receive a new grant under 43 U.S.C. 1761 *et seq.* and the regulations in this part. BLM may include the same terms and conditions in the new grant as were in the original grant as to annual rent, duration, and nature of interest if BLM determines, based on current land use plans and other management decisions, that it is in the public interest to do so; or

(2) Alternatively, BLM may keep the old grant in effect and issue a new grant for the new use or location, or terms and conditions.

(e) You must apply for a new grant to allow realignment of your railroad and appurtenant communication facilities. BLM must issue a decision within 6 months after it receives your complete application. BLM may include the same terms and conditions in the new grant as were in the original grant as to annual rent, duration, and nature of interest if:

(1) These terms are in the public interest;

(2) The lands are of approximately equal value; and

(3) The lands involved are not within an incorporated community.